



The Internet & Television Association

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Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street SW
Washington, DC 20554

Re: *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, PS Docket No. 15-94; Wireless Emergency Alerts, PS Docket No. 15-91*

Dear Ms. Dortch:

On June 29 and July 2, 2018, Loretta Polk and Andy Scott of NCTA – The Internet & Television Association (NCTA) and Eric Schmidt of Willkie Farr & Gallagher LLP met with the following FCC staff to discuss the above-referenced proceeding: Travis Litman, Chief of Staff to Commissioner Rosenworcel (June 29); Erin McGrath, Legal Advisor to Commissioner O’Rielly (July 2); Zenji Nakazawa, Legal Advisor to Chairman Pai (July 2); and Will Adams, Legal Advisor to Commissioner Carr (July 2, via teleconference).

In each meeting, NCTA expressed support for effective “live code” testing of the Emergency Alert System (EAS) and reiterated the cable industry’s interest in participating in testing exercises in cooperation with federal, state, and local authorities. NCTA noted, however, that a technical issue with live code test messages delivered over the traditional broadcast “daisy chain” may result in public confusion and alert fatigue by triggering on-screen text crawls associated with a real emergency. As comments in the record indicate, alerts transmitted via the Integrated Public Alert and Warning System (IPAWS) are capable of including text announcing a live code test, but it is not technically feasible to transmit such text over the broadcast-based “daisy chain” EAS distribution system.¹ In the daisy chain system, EAS equipment responds to the incoming alert header code by converting that code into text about the event (*i.e.* the date, time, alert originator, nature and location of the emergency). Consequently, live code tests

¹ See Trilithic Comments at 4, PS Docket No. 15-94 (June 7, 2016) (“The audio message included with a live code test can specify that the alert is ‘only a test,’ however only alerts received from CAP sources are capable of including text to visually indicate that the alert is a test. Live code tests received from traditional EAS sources will not include a visual indication that the alert is a test.” See also NCTA Comments at 10, n.22, PS Docket No. 15-94 (June 8, 2016) (“[L]ive code testing would distribute EAS messages lacking header information indicating that the activation is a test.”).

initiated via the daisy chain may cause downstream EAS equipment to display text such as “the National Weather service has issued a Tornado Warning for the following counties...” even if the audio portion of the message indicates that the alert is only a test.

NCTA urged that, to the extent the Commission proceeds with its draft Report and Order authorizing live code testing without individual waivers, the Commission should encourage entities that conduct such exercises to do so via IPAWS to minimize any risk of public confusion. NCTA also emphasized that all affected EAS Participants should receive enough advance notice of any planned live code tests to assess and mitigate the impact on downstream equipment and subscribers (*e.g.*, 30 days’ notice, preferably in a centralized location rather than on an ad hoc basis in each jurisdiction conducting a test). Consistent with the voluntary nature of non-Presidential EAS activations and with NCTA’s 2016 comments in this proceeding, we also requested that the Report and Order make clear that downstream communications providers may choose not to participate in any live code testing exercise that creates an unacceptable risk of subscriber confusion.²

Please address any additional questions regarding the foregoing to the undersigned.

Respectfully submitted,

/s/ Loretta Polk

Loretta Polk

cc: Travis Litman
Erin McGrath
Zenji Nakazawa
Will Adams

² See NCTA Comments at 10 n.22, PS Docket No. 15-94 (June 8, 2016) (requesting that the Commission “require[e] all downstream EAS stakeholders to be notified well ahead of the test and given the opportunity to choose not to participate”).